

TRYAL

OF

William Penn,

AND

William Mead,

At the Sessions held in the Old-Baily, London, the First, Third, Fourth, and Fifth, of September, 1670; for Unlawfully and Tumultuously Assembling in Grace-Church-Street.

S H E W I N G

The Arbitrary, Illegal, and Tyrannical Proceedings of the High-Church Party at that Time.

Isa. X. 1, 2 *Wo unto them that Decree unrighteous Decrees, and Write Grievousness, which they have prescrib'd, to turn away the Neddy from Judgment, and to take away the Right from the Poor, &c.*

Psalm XCIV. 20. *Shall the Throne of Iniquity have fellowship with them, which frameth Mischief by a Law?*

sic volo, sic jubeo, stat pro ratione voluntas.

L O N D O N

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TO THE English Reader.

Never it were time to Speak, or Write, 'tis now, so many Strange Occurrences requiring both.

How much thou art concern'd in this ensuing Trial, where, not only the Prisoners, but the Fundamental Laws of England have been most Arbitrarily Arraign'd: Read, and thou may'st plainly judge.

Liberty of Conscience, is countenanced a Pretence for Rebellion, and Religious Assemblies, Routs, and Riots; and the Defenders of both, are by them reputed Factious and Dis-affected.

Magna Charta, is Magna Farce with the Recorder of London, and to demand Right, an Affront to the Court.

Will and Power are Their great Charter, but to call for England's, is a Crime, incurring the penalty of their Bale-dock, and Nasty-Hole; Nay, the menace of a Gag, and Iron-hackles too.

The Jury, though prouder Judges of Law and Fact, they would have Over-ruled in both, as if their Verdict signify'd no more, than to Echo back the Illegal Charge of the Bench; and because their Courage and Honesty did more than bold pace with the Threat and Abuse of those who sat as Judges, after two Days and two Nights restraint for a Verdict, in the End were hind and Imprison'd for giving it.

O! what monstrous and illegal Proceedings are these? Who reasonably can call his Coat his own, when Property is made subservient to the Will and Interest of his Judges? Or, who in truly esteem himself a Free-Man, when all Pleas for Liberty are esteem'd Sedition, and the Laws, that Give, and Maintain them, so many insignificant pieces of Formality?

And what do they less than plainly tell us so, who, at Will and Pleasure, break open our Locks, rob our Houses, raise their foundations, imprison our Persons, and finally deny us Justice our relief; as if they acted most like Christian Men, when they were most Barbarous, in Ruining such as are really so;

and that no Sacrifice could be so acceptable to God, as the Destruction of those that most fear him ?

In short, That the Conscientious should only be Obnoxious, and the just demand of our Religious Liberty, the reason why we should be deny'd our civil Freedom, as if to be a Christian and an English-man, were inconsistent, and that so much Solicitude and deep Contrivance, should be employ'd only to Ensnare, and Ruin, so many ten thousand Conscientious Families, so eminently Industrious, Serviceable, and Exemplary whilst Murders can so easily obtain pardons, Rapes be remitted publick Uncleanness pass unpunish'd, and all manner of Le^Avity, Prodigality, Excess, Prophaneness, and Atheism, universally conniv'd at, (if not, in some respect, manifestly encourag'd) cannot but be detestable abhorrent to every serious and honest Mind.

Let that this lamentable State is true, and the present Project in hand, let London's Recorder, and Canterbury Chaplain be heard.

The First, In his publick Panegyric upon the Spanish Inquisition, highly admiring the prudence of the Rom^{is}i Church, in the erection of it, as an excellent way to prevent Schism, which unhappy Expression, at once passeth Sentence, both against our fundamental Laws, and Protestant Reformation.

The Second, In his Printed Mercenary Discourse against Toleration, asserting, for a main Principle, That it would be less Injurious to the Government, to dispence with Prophane and Loose Persons, than to allow a Toleration to Religious Dissenters: It were to over-do the business say any more, where there is so much said already.

And therefore to Conclude, We cannot choose but Admonish all, as well Persecutors, to relinquish their Heady, Partisan and Inhumane Prosecutions (as what will certainly issue Disgrace here, and inevitable condign Punishment hereafter as those who yet dare express their Moderation, however out of fashion, or made the brand of Phanaticism, not to Huf'd, or Menaced out of that excellent Temper, to make the Parts and Persons subservient to the base Humours, and vulture nister Designs of the biggest Mortal upon Earth: But to reverence and obey the Eternal Just God, before whose great Tribunal all must render their accounts, and where he will compence to every Person according to his Works.

T H E

T R Y A L

O F

Will. Penn and Will. Mead.

AS there can be no Observation where there is no Action; so its impossible there should be a judicious Intelligence without due Observation.

And since there can be nothing more Seasonable, than a right Information, especially of *Publick Acts*; and well knowing how industrious some will be to mis-represent this Tryal to the Disadvantage of the Cause and Prisoners, it was thought requisit, in Defence of Both, and for the Satisfaction of the People, to make it more publick; nor can there be any Businesse wherein the People of *England* are more concern'd than in that which relates to their Civil and Religious Liberties, question'd in the Persons above-nam'd, at the *Old-Baily*, the First, Third, Fourth, and Fifth of Sept. 1670.

There being present on the Bench, as Justices.

Sam. Starling, Mayor,
John Howel, Recorder.
Ibo. Bludworth, Alder.
William Peak, Alderm.
Richard Ford, Alderm.

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John Robinson, Alderm.
Joseph Shelden, Alderm.
Richard Brown.
John Smith,
James Edwards, Sheriffs.

The Citizens of London that were Summon'd for J U R O R S, appearing, were Impannell'd; viz.

Clar. Call over the Jury.

Cryer. O yes, *Thomas Veer*, *Ed. Busbel*, *John Hammond*, *Charles Wilson*, *Gregory Walklet*, *John Brightman*, *Wil. Plumfled*, *Hen. Henly*, *James Damask*, *Henry Michell*, *Wil. Lever*, *John Baily*.

The Form of the Oath.

You shall well and truly Try, and true Deliverance make betwixt our veteign Lord the King and the Prisoners at the Bar, according to our Evidence; So help you God.

The I N D I C T M E N T.

That *Willian Penn*, Gent. and *Willian Mead*, late of *London*, *Lin-n-Draper*, with divers other Persons, to the Jurors unknown, to the number of Three Hundred, the 14th Day of *August*, in the 22d Year of the King, about Eleven of the Clock in the Forenoon, the same Day,

with Force and Arms, &c. in the Parish of St. Bennet Grace-Church in Bridge-Ward, London, in the Street called Grace-Church-Street. Unlawfully and Tumultuously did Assemble and Congregate themselves together, to the disturbance of the Peace of the said Lord the King: And the aforesaid *William Penn*, and *William Mead*, together with other Persons, to the Jurors aforesaid unknown, then and there so Assembled, and Congregated together; the aforesaid *William Penn* by agreement between him and *William Mead*, before made, and by abetment of the aforesaid *William Mead*, then and there, in the open Street, did take upon himself to Preach and Speak; and then, and there did Preach and Speak, unto the aforesaid *William Mead*, and other Persons there, in the Street aforesaid, being Assembled and Congregated together, by reason whereof a great Concourse and Tumult of People in the Street aforesaid, then, and there, a long time did remain and continue, in Contempt of the said Lord the King, and of his Law, to the great disturbance of his Peace, to the great terror and disturbance of many of his Leige People and Subjects, to the ill Example of all others, in the like Case Offenders, and against the Peace of the said Lord the King, his Crown, and Dignity.

Wat say you, William Penn and William Mead: are you Guilty, or you stand Indicted, in Manner and Form, as aforesaid, or not Guilty Penn. It is impossible, that we should be able to remember the Indictment verbatim, and therefore we desire a Copy of it, as is customary in the like Occasions.

Rec. You must first plead in the Indictment, before you can have Copy of it.

Pen. I am unacquainted with the formality of the Law; and therefore, before I shall answer directly, I request two Things of the Court. *First*, That no Advantage may be taken against me, nor I depriv'd any Benefit, which I might otherwise have receiv'd. *Secondly*, That you will promise me a fair Hearing, and liberty of making my Defence.

Court. No Advantage shall be taken against you; you shall have liberty; you shall be Heard.

Penn. Then I plead not Guilty in manner and form.

Cla. What say'st thou, William Mead, art thou guilty in manner and form, as thou standest Indicted, or not Guilty?

Mead. I shall desire the same liberty as is promis'd *William Penn* Court. *You shall have it.*

Mead. Then I plead not Guilty in manner and form.

The Court adjourn'd untill the Afternoon.

Cryer. O Yes, &c.

Cla. Bring William Penn and William Mead to the Bar.

Officer. The said Prisoners were brought, but were set aside, and other Business Prosecuted. Where we cannot choose but observe That it was the constant and unkind Practices of the Court, to the Prisoners, to make them wait upon the Tryals of Fellons & Murderers thereby designing, in all probability, both to affront and tire them.

After Five Hours Attendance, the Court broke up, and Adjourned to the third Instant.

The Third of September, 1670. the Court sat.

Cryer. O Yes! &c.

(9)
Cla. Bring William Penn and William Mead to the Bar.

Major. Sirrah, who bid you pull their Hats? Put on their Hats again.
Officer. Whereupon one of the Officers putting the Prisoners Hats upon their Heads (pursuant to the Order of the Court) brought them to the Bar.

Record. Do you know where you are?

Penn. Yes.

Record. Do not you know it is the King's Court?

Penn. I know it to be a Court, and I suppose it to be the King's Court.

Record. Do you not know there is Respect due to the Court?

Penn. Yes.

Recd. Why do you not pay it then?

Penn. I do so.

Record. Why do you not pull off your Hat then?

Penn. Because I do not believe that to be any Respect.

Record. Well; the Court sets forty Marks a-piece upon your Heads, as a Fine for your contempt of the Court.

Penn. I desire it might be observ'd, That we came into the Court with our Hats off, (that is, taken off) and if they have been put on since, it was by Order from the Bench; and therefore not we, but the Bench shou'd be Fin'd.

Mead. I have a Question to ask the Recorder: Am I Fin'd also?

Record. Yes.

Mead. I desire the Jury, and all People, to take Notice of this Injustice of the Recorder, who spake not to me to pull off my Hat, and yet hath he put a Fine upon my Head. O fear the Lord, and dread his Power, and yield to the guidance of his holy Spirit; for he is not far from every one of you.

The Jury Sworn again.

Officer. F. Robinson, Lieutenant of the Tower, disingeniously objected against Edward Bushell, as if he had not kill'd the Book, and therefore would have him sworn again; tho' indeed, it was on purpose to have made use of his tenderness of Conscience, in avoiding re-iterated Oaths, to have put him by his being a Jury-man, apprehending him to be a Person, not fit to answer their Arbitrary Ends.

The Clerk read the Indictment, as aforesaid.

Cla. Cryer, call James Cook into the Court; give him his Oath.

Cla. James Cook, lay your Hand upon the Book; The Evidence you shall give to the Court, betwixt our Sovereign the King, and the Prisoners at the Bar, shall be the Truth, and the whole Truth, and nothing but the Truth; so help you God. &c.

Cook. I was sent for, from the Exchange, to go and disperse a Meeting in Grace-Church-Street, where I saw Mr. Penn speaking to the People, but I could not hear what he said, because of the noise; I endeavour'd to make way to take him, but I could not get to him for the Crowd of People; upon which Captain Mead came to me, about the Kennel of the Streets, and desired me to let him go on; for what he had done, he would bring Mr. Penn to me.

Court. What Number do you think might be these?

Cook. About three or four hundred People.

Cour. Call Richard Reed, Give him his Oath.

Read being sworn, was ask'd, what do you know concerning the Prisoners at the Bar.

Read. My Lord, I went to Grace-Church-Street, where I found a great Crowd of People, and I heard Mr. Penn Preach to them; and I saw Captain Mead speaking to Lieutenant Cook, but what he said I could not tell.

Mead. What did William Penn say?

Read. There was such a great Noise, that I could not tell what he said.

Mead. Jury observe this Evidence, he saith he heard him preach, and yet saith, He doth not know what he said.

Jury take Notice, he swears now a clean contrary Thing, to what he swore before the Mayor, when we were committed: For now he swears that he saw me in Grace-Church-Street, and yet swore before the Mayor, when I was committed, that he did not see me there. I appeal to the Mayor himself, if this be not true; but no Answer was given.

Cour. What Number do you think might be there?

Read. About four or five Hundred.

Penn. I desire to know of him what Day it was?

Read. The 14th Day of August.

Penn. Did he speak to me, or let me know he was there? For I am very sure I never saw him.

Clar. Cryer, Call ——— into the Court.

Cour. Give him his Oath.

— My Lord, I saw a great Number of People, and Mr. Penn, I suppose was speaking; I see him make a Motion with his Hands, and heard some Noise, but could not understand what he said; but for Captain Mead, I did not see him there.

Rec. What say you Mr. Mead? Were you there?

Mead. It is a Maxim in your own Law, *Nemo tenetur accusare se ipsum*, which if it be not true Latin, I am sure it is true English, That no Man is bound to accuse himself: And why do'st thou offer to ensnare me with such a Question? Doth not this shew thy Malice? Is this like unto a Judge, that ought to be Counsel for the Prisoner at the Bar?

Record. Sir, Hold your Tongue; I did not go about to ensnare you.

Penn. I desire we may come more close to the Point, and that Silence be commanded in the Court.

Cry. O yes, All manner of Persons keep Silence, upon pain of Imprisonment. — Silence in the Court.

Penn. We confess our selves to be so far from recanting, or declining to vindicate the Assembling of our selves, to Preach, Pray, or Worship the Eternal, Holy, Just God, that we declare to all the World, that we do believe it to be our indispensable Duty, to meet incessantly upon so good an Account; nor shall all the Powers upon Earth be able to divert us from Reverencing and Adoring our God, who made us.

Brown. You are not here for Worshipping God, but for Breaking the Law: You do your selves a great deal of Wrong in going on in that Discourse.

Penn. I affirm I have broken no Law, nor am I guilty of the Indictment that is laid to my Charge; and to the End, the Bench, the Jury, and my self, with these that hear us, may have a more direct Understanding of this Procedure. I desire you would let me know by what Law it is you Prosecute me, and upon what Law you ground my Indictment.

Rec. Upon the Common-Law,

Penn.

Penn. Where is that Common-Law?

Rec. You must not think that I am able to run up so many Years, and over so many adjudg'd Cases, which we call Common-Law, to answer your Curiosity.

Penn. This Answer I am sure is very short of my Question; for if it be Common, it should not be so hard to produce.

Rec. Sir, will you plead to your Indictment?

Penn. Shall I plead to an Indictment, that hath no Foundation in Law? If it contain that Law you say I have broken, why should you decline to produce that Law, since it will be impossible for the Jury to determine, or agree to bring in their Verdict, who have not the Law produced by which they should measure the Truth of this Indictment, and the Guilt, or Contrary, of my Fact?

Rec. You are a saucy Fellow: Speak to the Indictment.

Penn. I say, it is my Place to speak to matter of Law; I am arraign'd a Prisoner, my Liberty, which is next to Life it self, is now concern'd, you are many Mouths and Ears against me, and if I must not be allow'd to make the best of my Case, it is hard: I say again, unless you shew me, and the People, the Law you ground your Indictment upon, I shall take it for granted, your Proceedings are merely Arbitrary.

Obser. At this Time several upon the Bench urged hard upon the Prisoner to bear him down.

Rec. The Question is whether you are guilty of this Indictment?

Penn. The Question is not whether I am guilty of this Indictment, but whether this Indictment be Legal, it is too general and imperfect an Answer, to say it is the Common-Law, unless we knew both where, and what it is; for where there is no Law, there is no Transgression; and that Law which is not in Being, is so far from being Common, that it is no Law at all.

Rec. You are an impertinent Fellow: Will you teach the Court what Law is? It's Lex non scripta, that which many have studied thirty or forty Years to know, and would you have me tell you in a Moment?

Penn. Certainly, if the Common-Law be so hard to be understood, it's far from being very Common; but if the Lord Cook in his Institutes, be of any Consideration, he tells us, That Common-Law is Common Right, and that Common Right is the great Charter-Priviledges, Confirm'd 9 Hen. 3. 29. 25 Edw. 1. 1. 2 Edw. 3. 8. Cook Inst. 2. p. 56.

Rec. Sir, you are a troublesome Fellow, and it is not for the Honour of the Court to suffer you to go on.

Penn. I have ask'd but one Question, and you have not answer'd me; though the Rights and Priviledges of every English-man be concern'd in it.

Rec. If I should suffer you to ask Questions till to Morrow Morning you would be never the wiser.

Penn. That is according as the Answers are.

Rec. Sir, We must not stand to hear you talk all Night.

Penn. I design no Affront to the Court, but to be heard in my just Plea; and I must plainly tell you, that if you will deny me Oyer of that Law, which you suggest I have broken, you do at once deny me an acknowledg'd Right, and evidence to the whole World your Resolution to sacrifice the Priviledges of English-men, to your Sinister and Arbitrary Designs.

Rec.

Rec. Take him away: My Lord, if you take not some Course with this pestilent Fellow, to stop his Mouth, we shall not be able to do any Thing to Night.

May. Take him away, take him away, turn him into the Hale-dock.

Penn. These are but so many vain Exclamations; Is this Justice or true Judgment? Must I therefore be taken away because I plead for the Fundamental Laws of England? However, this I leave upon your Consciences, who are of the Jury (and my sole Judges) that if these Ancient fundamental Laws, which relate to Liberty and Property, and (are not limited to particular Perswasions in matters of Religion) must not be indispensibly maintain'd and obserw'd. Who can say he hath Right to the Coat upon his Back? Certainly our Liberties are openly to be invaded, our Wives to be ravish'd, our Children slay'd, our Families ruin'd, and our Estates leg away in Triumph, by every sturdy Beggar and malitious Informer, as their Trophies, but our (pretended) Forfeits for Conscience sake; the Lord of Heaven and Earth will be Judge between us in this Matter.

Rec. Be silent there.

Penn I am not to be silent in a Case wherein I am so much concern'd, and not only my self, but many ten thousand Families besides.

Obser. They having rudely haled him into the Hale-dock, William Mead they left in Court, who spake as followeth.

Mead. You Men of the Jury, here I do now stand to answer to an Indictment against me, which is a Bundle of Stuff, full of Lyes and Falshoods; for therein I am accused, that I met *V; & Armes, Illicite et tumultuose*: Time was, when I had Freedom to use a carnal Weapon, and then I thought I fear'd no Man; but now I fear the Living God, and dare not make Use thereof, nor hurt any Man; nor do I know I demeap'd my self as a tumultuous Person: I say, I am a peaceable Man, therefore it is a very proper Question what William Penn demanded in this Case, An Oyer of the Law, on which our Indictment is grounded.

Rec. I have made Answer to that already.

Mead. Turning his Face to the Jury, saith, You Men of the Jury, who are my Judges, if the Recorder will not tell you what makes a Riot, a Rout, or an unlawful Assembly, Cook, he that once they called the Lord Cook, tells us what makes a Riot, a Rout, or an unlawful Assembly — A Riot is when three, or more, are met together to beat a Man, or to enter forcibly into another Man's Land, to cut down his Grafs, his Wood, or break down his Pales.

Obser. Here the Recorder interrupted him, and said, I thank you, Sir, that you will tell me what the Law is, scornfully pulling off his Hat.

Mead. Thou may'st put on thy Hat, I have never a Fee for thee now.

Brown. He talks at random, one while an Independent, another while some other Religion, and now a Quaker, and next a Papist.

Mead. Turpe est doctorum cum culpa redarguit ad ipsum.

May. You deserve to have your Tongue cut out.

Rec. If you discourse on this matter, I shall take occasion against You.

Mead. Thou did'st promise me, I should have fair Liberty to be heard Why may I not have the Priviledge of an English-man? I am an English-man, and you might be ashame of this Dealing.

Rec. I look upon You to be an Enemy to the Laws of England,

were to be observed and held, nor are you members of such Privileges as others have.

Mead. The Lord is Judge between me and thee in this Matter.

Obser. Upon which they took him away into the Pale-dock, and the Recorder proceeded to give the Jury their Charge, as followeth.

Rec. You have heard what the Indictment is, it is for preaching to the People, and drawing a tumultuous Company after them, and Mr. Penn was speaking; if they shou'd not be disturb'd, you see abey will go on; there are three or four Witnesses, that have prov'd this, that he did preach there, that Mr. Mead did allow of it; after this, you have heard by substantial Witnesses what is said against them: Now we are upon the Matter of fact, which you are to keep to, and observe as what hath been fully sworn at your Peril.

Obser. The Prisoners were put out of the Court, into the Pale-dock, and the Charge given to the Jury in their Absence, at which W. P. with a very raised Voice, it being a considerable distance from the Bench, spake,

Penn. I appeal to the Jury, who are my Judges, and this great Assembly, whether the Proceedings of the Court are not most arbitrary, and void of all Law, in offering to give the Jury their Charge in the Absence of the Prisoners; I say, it is directly opposite to, and destructive of the undoubted Right of every English Prisoner, as Cook in the 2 Inst. ap. on the chap. of *Magna Charta* speaks.

Obser. The Recorder being thus unexpectedly lash'd for his extra-judicial Procedure, saith with an enraged smile.

Rec. Why, ye are present, you do bear, do you not?

Penn. No Thanks to the Courts, that commanded me into the Pale-dock; and you of the Jury take notice, that I have not been heard, neither can you legally depart the Courts, before I have been fully heard, having at least ten or twelve material Points to offer, in order to invalidate their Indictment.

Rec. Pull that Fellow down, pull him down.

Mead. Are these according to the Rights and Privileges of Englishmen, that we should not be heard, but turn'd into the Pale dock, for making our Defence, and the Jury to have their Charge given them in our Absence? I say these are barbarous and unjust Proceedings.

Rec. Take them away into the Hole; to bear them talk all Nights, as they wou'd, that I think doth not become the Honour of the Courts, and I think you (i. e. (the Jury) your selves wou'd be tired out, and not have Patience to bear them.

Obser. The Jury were commanded up to agree upon their Verdict, the Prisoners remaining in the stinking Hole; after an Hour and half's time Eight came down agreed, but four remain'd Above: The Court sent an Officer for them, and they accordingly came down: The Bench used many unworthy Threats to the four that Dissented; and the Recorder, addressing himself to Bushel, said, Sir, you are the cause of this Disturbance, and manifestly shew your self an Abettor of Faction, I shall set a Mask upon you, Sir.

J. Robinson. Mr. Bushel, I have known you near this fourteen Years; you have trust your self upon this Jury, because you think there is some Service for you; I tell you, you deserve to be Indicted more than any Man that hath been brought to the Bar this Day.

Bushel

Bush. No, Sir John, there were Threescore before me, and I would willingly have got off, but could not.

Bludw. I said, when I saw Mr. Bushel, what I see is come to pass, for I knew he would never yield. Mr. Bushel, we know what you are.

May. Sirrah, you are an impudent Fellow; I will put a Mark upon you.

Obser. They used much menacing Language, and behav'd themselves very imperiously to the Jury, as Persons not more void of Justice than sober Education: After this barbarous Usage, they sent them to consider of bringing in their Verdict, and after some considerable time they return'd to the Court. Silence was call'd for, and the Jury call'd by their Names.

Cla. Are you agreed upon your Verdict?

Jury. Yes.

Cla. Who shall speak for you?

Jury. Our Fore-man.

Cla. Look upon the Prisoners at the Bar: How say you? Is *William Penn* guilty of the Matter whereof he stands Indict'd, in manner and form, or not Guilty.

Fore-m. *Guilty of speaking in Grace-Church-Street,*

Court. Is that all?

Fore-m. *That is all I had in Commission,*

Rec. You had as good say nothing.

May. Was it not an unlawful Assembly? You mean he was speaking to a Tumult of People there?

Fore-m. *My Lord, this was all I had in Commission.*

Obser. Here some of the Jury seem'd to buckle to the Questions of the Court; upon which *Bushel, Hammond*, and some others Oppos'd themselves, and said, *They allow'd of no such Word, as an unlawful Assembly in their Verdict;* at which the *Recorder, Mayor, Robinson*, and *Bludworth*, took great occasion to villifie them with most approbious Language; and this Verdict not serving their turns, the *Recorder* express'd himself thus:

Rec. The Law of *England* will not allow you to depart till you have given in your Verdict.

Jur. *We have given in our Verdict, and we can give in no other.*

Rec. Gentlemen, you have not given in your Verdict, and you had as good say nothing; therefore go and consider it once more, that we may make an end of this troublesome Busines.

Jur. *We desire we may have Pen, Ink, and Paper.*

Obser. The Court adjourns for half an hour; which being expir'd, the Court returns, and the Jury not long after.

The Prisoners were brought to the Bar, and the Jury's Names call'd over.

Cla. Are you agreed of your Verdict?

Jur. Yes.

Cla. Who shall speak for you?

Jur. Our Fore-man.

Cla. What say you? Look upon the Prisoners: Is *William Penn* Guilty in Manner and Form, as he stands Indict'd, or not Guilty?

Fore-m. *Here is our Verdict:* Holding forth a piece of Paper to the Clerk of the Peace, which follows.

W B, the Jurors hereafter Named, do find William Penn to be
Guilty of Speaking or Preaching to an Assembly, met together
in Grace-Church-Street, the 14th of August last, 1670, and that
William Mead is not Guilty of the said Indictment.

Fore-m. *Thomas Veer,
Edward Bushel,
John Hammond,
Henry Henley,
Henry Michel,
John Brightman,*

*Charles Milson,
Gregory Walker,
John Baily,
William Lever,
James Damask,
Wil. Plumfield.*

Obser. This both *Mayor* and *Recorder* resented at so high a rate, that they exceeded the bounds of all Reason and Civility.

May. What will you be lead by such a silly Fellow as Bushel? An impudent Canting Fellow: I warrant you, you shall come no more upon *Juries* in haste: You are a Fore-man indeed, addressing himself to the Fore-man; I thought you had understood your place better.

Rec. Gentlemen, You shall not be dismiss'd till we have a *Verdict* that the Court will accept; and you shall be lock'd up without Meat, Drink, Fire, and Tobacco: You shall not think thus to abuse the Court; we will have a *Verdict*, by the help of God, or you shall Starve for it.

Penn. My *Jury*, who are my *Judges*, ought not to be thus menaced; their *Verdict* should be free, and not compell'd; the *Bench* ought to wait upon them, but not forestaul them: I do desire that Justice may be done me, and that the arbitrary Resolves of the *Bench* may not be made the measure of my *Jury's Verdict*.

Rec. Stop that prating Fellow's Mouth, or put him out of the Court.

May. You have heard that he Preach'd, that he gather'd a Company of tumultuous People, and that they do not only disobey the Martial Power, but Civil also.

Penn. It is a great mistake, we did not make the tumult, but they that Interrupted us; the *Jury* cannot be so Ignorant, as to think, that we met there, with a design to disturb the Civil Peace, since (*first*) we were by force of Arms kept out of our Lawful House, and met as near it in the Street, as their Soldiers would give us leave; and (*secondly*) because it was no new Thing, (nor with the Circumstances express'd in the Indictment) but what was usual and customary with us; 'tis very well known that we are a peaceable People, and cannot offer Violence to any Man.

Obser. The Court being ready to break up, and willing to huddle the Prisoners to their Goal, and the *Jury* to their Chamber, *Penn* spoke as follows.

Penn. The agreement of twelve Men is a *Verdict* in Law, and such a one being given by the *Jury*, I require the Clerk of the Peace to Record it, as he will answer it at his Peril: And if the *Jury* bring in another *Verdict*, contradictory to this, I affirm they are Perjur'd Men in Law. (and looking upon the *Jury* laid) You are *English-men*, mind your Priviledge; give not away your Right.

Bush. &c. Nor will we do it.

Obser. One of the *Jury-men* pleaded Indisposition of Body, and theretore desir'd to be dismiss'd.

May:

(14)
Maj. You are as strong as any of them ; staye them ; and hold your Principles.

Rec. Gentlemen, You must be content with your hard Fate ; let your Patience overcome it, for the Court is resolv'd to have a Verdict, and that before you can be dismis'd.

Jury. We are agreed, we are agreed, we are agreed.

Obsr. The Court sent several Persons to keep the Jury all Night without Meat, Drink, Fire, or any other Accommodation ; they had not so much as a Chamber-Pot, tho' defin'd.

Cry. O yes, &c.

Obsr. The Court adjourns till Seven of the Clock next Morning, (being the Fourth Instant, vulgarly call'd Sunday) at which time the Prisoners were brought to the Bar, the Court sat, and the Jury call'd to bring in their Verdict.

Cry. O yes, &c. --- Silence in the Court, upon Pain of Imprisonment.

The Jury's Names call'd over.

Cla. Are you agreed upon your Verdict?

Jury. Yes.

Cla. Who shall speak for you?

Jury. Our Fore-man.

Cla. What say you ; Look upon the Prisoners at the Bar : Is W. Penn Guilty of the Matter, whereof he stands Indicted, in Manner and Form as aforesaid, th' not Guilty ?

Fore-man. Wil. Penn is Guilty of speaking in Grace-church-street.

May. To an unlawful Assembly ?

Bush. No, my Lord, we give no such Verdict, than what we gave last Night : We have no other Verdict to give.

May. You are a factious Fellow : I'll take a Curse with you.

Bindo. I knew Mr. Bushel would not y'eld.

Bush. Sir Tho. I have done according to my Conscience.

May. That Conscience of yours would cut my Throat.

Bush. No, my Lord, it never shall.

May. But I will cut yours so sood as I can.

Rec. He has inspired the Jury, he has the Spirit of Division, me thinks I feel him ; I will have a positive Verdict, or you shall starve for it.

Penn. I desire to ask the Recorder one Question : Do you allow of the Verdict given of William Mead's

Rec. It cannot be a Verdict, because you are Indicted for a Conspiracy, and one being found not guilty, and not the other it could not be a Verdict.

Penn. If Not guilty be not a Verdict, then you make of the Jury and Magna Charta but a mere Nose of Wax.

Mead. How ! Is Not guilty no Verdict ?

Rec. No, 'tis no Verdict.

Penn. I affirm that the Consent of a Jury is a Verdict in Law ; and if W. M. be not guilty, it consequently follows, that I am clear, since you have Indicted us of a Conspiracy, and I could not possibly Conspire alone.

Obsr. There were many Passages, that could not be taken, which past between the Jury and the Court. The Jury went up again, having receiv'd a fresh Charge from the Bench, it possible to extort an unjust Verdict.

Cry.

By. O Mr. Rec. — Silence in the Court.

Court. Call over the Jury! — Which was done.

Clar. What say you? Is William Penn guilty of the Blatter, whether he stands Indicted, in manner and form aforesaid, or not Guilty?

Fore-m. Utility of speaking in Grace-Church-Street.

Rec. What is this to the purpose? I say I will have a Verdict. And speaking to E. Bushel, said, You are a fiddling Fellow: I will set a mark upon you; and whilst I have any thing to do in the City, I will set an Eye upon you.

May. Have you no more Wit than to be led by such a pitiful Fool w^t I will cut his Nose.

Penn. It is intolerable that my Jury should be thus menac'd: Is this according to the Fundamental Laws? Are not they my proper Judges by the great Charter of England? What scope is there of ever having Justice done, when Juries are Threatned, and their Verdicts rejected; am concern'd to speak, and grieved to see such arbitrary Proceedings. Did not the Lieutenant of the Tower render end of them worse than Fellow? And do you not plainly seem to condemn such凶狠的 fellows, who answer not your Ends? Unhappy are those Juries who are threaten'd to be Pin'd, and Starv'd, and Ruin'd, if they give not in Verdicts contrary to their Consciences.

Rec. My Lord, you must take a Course with that same Fellow.

May. Stop his Mouth; Taylor, bring Fetter, and take him to the Ground.

Penn. Do your Pleasure: I matter not your Fetter.

Rec. Till now I never understood the reason of the policy and prudence of the Spaniards, in suffering the Inquisition among them: And certainly it will never be well with us, till something like the Spanish Inquisition be in England.

Obser. The Jury being requir'd to go together to find another Verdict, and stedfastly refusing it (saying they could give no other Verdict than what was already given) the Recorder in great Passion was running off the Bench, with these Words in his Mouth, "I protest I will sit here no longer to hear these Things. At which the Mayor calling, Stay, stay, he return'd, and directed himself unto the Jury, and spoke as followeth.

Rec. Gentlemen, we shall not be at this Trade always with you; You will find the next Sessions of Parliament, there will be a Law made, that those that will not conform shall not have the protection of the Law. Mr. Lee, draw up another Verdict, that they bring it in special.

Lee. I cannot tell how to do it.

Jur. We ought not to be return'd, having all agreed and set our Hands to the Verdict.

Rec. Your Verdict is Nothing; you play upon the Court; I say you shall go together, and bring in another Verdict, or you shall Starve; And I will have you carried about the City, as in Edward the third's Time.

Fore-m. We have given in our Verdict, and all agreed to it, and if we give in another, it will be a Force upon us to save our Lives.

May. Take them up.

Offic. My Lord they will not go up.

Obser. The Mayor spoke to the Sheriff, and he came off his Seat, and said,

the Clock.

Obser. The Prisoners were remanded to Newgate, where they remain till next Morning, and then were brought unto the Court, which being for they proceede as followeth.

Cry. O yes, &c. — Silence in the Court, upon Pain of Imprisonment.

Cla. Set William Penn and William Mead to the Bar. Gentlemen of the Jury answer to your Names. Tho. Veer, Edw. Bushell, John Hammond, Henry, Henr. Henry Michell, John Brightman, Charles Wilson, Gregory Walklet, John Ball, Will. Lever, Jam. Damask, Will. Plumfied, are you all agreed of your Verdict?

Jury. Yes.

Cla. Who shall speak for you?

Jury. Our Fore-man.

Cla. Look upon the Prisoners: What say you? Is William Penn Guilty or the Master, whereof he stands Indicted, in Manner and Form, &c. or not Guilty.

Fore-m. You have there read in writing already our Verdict in Writing, and our Hands subscribed.

Obser. The Clerk had the Paper, but was stop'd by the Recorder from reading of it; and he commanded to ask for a positive Verdict.

Fore-m. If you will not accept of it, I desire to have it back again.

Cour. That Paper was no Verdict, and there shall be no Advantage taken against you by it.

Cla. How say you, Is William Penn guilty, &c. or not guilty?

Fore-m. Not guilty.

Cla. How say you? Is William Mead guilty, &c. or not guilty?

Fore-m. Not guilty.

Cla. Then hearken to your Verdict, you say, that William Penn is not guilty in manner and form as he stands Indicted, you say that William Mead is not guilty in manner and form as he stands Indicted, and so you say all.

Jury. Yes, we do so.

Obser. The Bench being unsatisfied with the Verdict, commanded that every Person should distinctly answer to their Names, and give in their Verdict, which they unanimously did, in saying, Not guilty, to the great Satisfaction of the Assembly.

Record. I am sorry, Gentlemen, you have follow'd your own Judgments and Opinions, rather than the good and wholsome Advice, which was given you; Go keep my Life out of your Hands; but for this the Court fines you forty Mark. — Man. and Imprisonment, till paid. At which Penn step'd up towards the Bench and said,

Penn. I demand my Liberty, being freed by the Jury.

May. No, you are in for your Fines.

Penn. Fine's, or what?

May. For Contemp' of the Court.

Penn. I ask if it be according to the fundamental Laws of England, that any English-man should be Fin'd or Amerc'd, but by the Judgment of his Peers, or Jury; since it expressly contradict, the fourteenth and twenty ninth Chap. o^r the great Charter of England, which say, No Freeman ought to be Amerc'd, but by the Oath of good and lawful Men of the Vicinage.

Rec. Take him away, Take him away, Take him out of the Court.

Penn. I can never urge the fundamental Laws of England, but you cry Take him away, Take him away. But it is no Wonder, Since the Spanish Inquisition hath so great a Place in the Recorder's Heart. God Almighty, who is just, will judge you all for all these Things.

Obser. They haled the Prisoners into the Bale-dock, and from thence sent them to Newgate, for Non-Payment of their Fines; and so were their Juij.